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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO.
09-976,003	10/15/2001	Ming Yan Chen		9578

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TAIPEI,
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EXAMINER

NGUYEN, TRAN N

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/976,003	CHEN, MING YAN
	Examiner	Art Unit
	Tran N. Nguyen	2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 March 2003.
 - 2a) This action is FINAL. 2b) This action is non-final.
 - 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- Disposition of Claims**
- 4) Claim(s) 1-8 is/are pending in the application.
 - 4a) Of the above claim(s) 4-8 is/are withdrawn from consideration.
 - 5) Claim(s) _____ is/are allowed.
 - 6) Claim(s) 1-3 is/are rejected.
 - 7) Claim(s) _____ is/are objected to.
 - 8) Claim(s) 1-8 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restriction

1. Applicant's election of claims 1-3, which are corresponding to figures 9A-9B, is acknowledged. Since Applicant did not provide any traversal arguments to the restriction requirement, the response is considered as election without traverse; therefore, *the election/restriction is made FINAL.*

Claim Objections

2. **Claims 5-6** are written as dependent claims of claim 3. However, the recitations of claims 5-6 are appeared to be appropriately dependent claims of claim 4.

If claims 5-6 actually depend from claim 3, then the recitation should be changed to ensure all recited subject matters establish clear antecedent basis and the recitations clearly set the limitations that further limiting the claimed language in the independent claim 3.

On the contrary, *if claims 5-6 depend from claim 4*, then the applicant should cancel claims 4-8 since they are drawn to a non-elected species of the invention. The applicant is informed that a divisional patent application for claims 4-8 can be filed.

Claim Rejections - 35 USC § 112

Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1-3: the claimed language of claims 1-3 contains several subject matters that lacks antecedent basis, and the claims' recitations are needed to be changed for clarification.

In claims 1-3, the general changes are the following:

The term “perpetual” should be changed to --permanent--

The term “conductive magnet board” should be changed to --conductive magnetic board--

In claims 1-3, there are several indefinite issues, for examples:

In claim 1:

“a conductive magnet board is mounted on and left with an appropriate depth, the conductive magnet board on its equal angle location is drilled with plurality of a bore hole uprightly to the main housing of the turning disc and become a blind hole, and the internal screws threads are mounted separately on the conductive magnet board” is indefinite because it is unclear what subject matter does the magnet board is mounted on and left with an appropriate depth, also the term “appropriate depth” is a relative term.

“divided into a N pole and a S pole, which the shape of both sides is in parallel, shapes of the top and bottom be coincided with the ring and the lateral shape is from the top downwards to the decline of an exact slant side, and the shape of the N pole magnet and the size of the thickness are larger than the S pole magnet, and the shape of the pressing board is like a fan, shapes of the top and bottom are coincided with the ring recess, and both sides of the left and right are closed with shapes of both opposite pole magnets; the lateral shape is from the top downwards to the decline of an opposite slant side” is indefinite because of the following:

it is unclear that each of the N-pole magnet and S-pole magnet having same shape or different shaped magnet? Assuming they have the same shape, wherein the shape have sides to be parallel. However, it is unclear what is the so-called “top and bottom” (side)? Top and bottom sides with respect to what subject matter or direction? Also, it is unclear the so-called “lateral shape” is the shape of the side or not?

Also, *“and the shape of the N pole magnet and the size of the thickness are larger than the S pole magnet”* the previous recitation seems to suggest the N-pole magnet and S-pole magnet having same shape, but this phrase in the recitation makes is confusing. Should it be that NOT the shape but the size of the N pole magnet and the thickness thereof are larger than those of S pole magnet?

In claim 2:

the recitation “*when the site sensor is in face of the N pole site probe hole the upper part and the magnet pole coil that face the perpetual magnet will become the N pole perpetual magnet, at the same time, when the site sensor is in face of the S pole site probe hole, the upper part and the magnet pole coil that face to the permanent magnet will become the S pole permanent magnet*” is indefinite because it is unclear the upper part of what subject matter?? Is it the upper part of the site sensor or the pole coil or the magnet?

The recitation “*as the motor current is switched on, the circuit controller will be given out a weak voltage, allowing the magnet pole coil to generate the magnetic polarity, and the opposite pole of the permanent magnet will approach to get the position, while the whole rotator is being got the position, when the electric door is switched on, it will transmit the normal working voltage*” is indefinite because the use of these relative terms “weak”, “normal”. Furthermore, the term “the electric door” lacks antecedent basis, and curiously how is an *electric door* being a part of the claimed magnet motor?

The above are but a few specific examples of indefinite and functional or operational language used throughout this claim, and are only intended to illustrate the extensive revision required to overcome the rejection under 35 USC 112, second paragraph. The above-mentioned corrections therefore, are in no way a complete and thorough listing of every indefinite and functional or operational language used throughout this claim. Applicant is required to revise all of the claim completely, and not just correct the indefinite and functional or operational languages mentioned.

No rejection based on prior art is given at this point of prosecution. MPEP 2173.06 states:

“...where there is a great deal of confusion and uncertainty as to the proper interpretation of the limitations of a claim, it would not be proper to reject such a claim on the basis of prior art. As stated in *In re Steele*, 305 F.2d 859, 134 USPQ 292 (CCPA 1962), a rejection under 35 U.S.C. 103 should not be based on considerable speculation about the meaning of terms employed in a claim or assumptions that must be made as to the scope of the claims.”

Given the great deal of confusion and uncertainty as to the proper interpretation of the limitations of claims, it would not be proper to reject claims 1-8 on the basis of prior art.

Given the 35 USC 112 deficiencies set forth above, no rejection based on the prior art

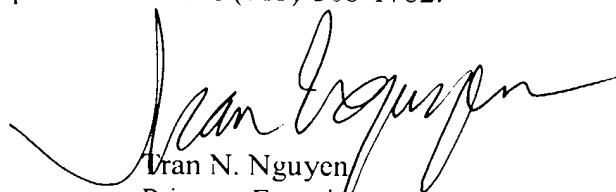
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran N. Nguyen whose telephone number is (703) 308-1639. The examiner can normally be reached on M-F 7:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703)-308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3431 for regular communications and (703)-305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1782.



Tran N. Nguyen
Primary Examiner
Art Unit 2834

May 19, 2003